

ID: CCA\_2011041513213926

Number: **201120023**

Release Date: 5/20/2011

Office:

UILC: 6603.00-00

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**From:**

**Sent:** Friday, April 15, 2011 1:21:59 PM

**To:**

**Cc:**

**Subject:** Return of Deposit

The taxpayer's representative remitted a check accompanied by a letter clearly designating the remittance as a deposit in the nature of a cash bond rather than a payment. Deposits in the nature of a cash bond are to be returned to taxpayers upon request, unless the Service has applied them as a payment against an assessed tax liability. Section 6.01 of Rev Proc. 2005-18. The emails you've sent confirm that there has been no assessed tax liability against which this deposit could be applied. Nor has there been a determination that collection of any tax to be assessed against the taxpayers is in jeopardy.

While the letter accompanying the check does not specify the "disputable issue" as required by section 7.02 of the Rev Proc., this only has bearing on whether section 6603 interest will be paid with the return of the deposit. It does not affect the underlying nature of the remittance as a deposit in the nature of a cash bond. The full amount of the deposit should be returned to the taxpayer. The representative's letter requesting the return of the deposit does not request that any interest should be paid on the deposit and it does not appear that the taxpayer has met the requirements of section 7.02 such that the taxpayer would be entitled to interest. Accordingly, the deposit should be returned without interest. Also under section 8 of the Rev. Proc., because the deposit is being returned the underpayment interest will not be suspended during the period for which the remittance was held as a deposit if a deficiency is later assessed against the taxpayer for the same period and tax.

I will be out next week, but  
can help you in my absence.

has assisted me with this matter and

Thanks,